



Environmental Fact Sheet

AGENCY EXTENDS POLICY ON REDUCED ENFORCEMENT PRIORITY FOR STORAGE OF MIXED WASTE FOR WHICH TREATMENT TECHNOLOGY OR STORAGE CAPACITY DOES NOT EXIST

The Environmental Protection Agency (EPA) announces a limited two-year extension of the "Policy on Enforcement of RCRA Section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Wastes," effective April 21, 1996.

Background

"Mixed wastes" are wastes that contain both a hazardous waste component, regulated under Subtitle C of the Resource Conservation and Recovery Act (RCRA) and a radioactive component, regulated under the Atomic Energy Act. Hazardous wastes are subject to the land disposal restrictions (LDRs) in 40 CFR Part 268. The LDRs require generators to treat hazardous wastes to specified treatment standards before they can be land disposed. RCRA section 3004(j) prohibits any storage of a land disposal prohibited waste (including mixed waste) except "for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal."

The original policy was published August 29, 1991, and extended April 20, 1994 with an expiration date of April 20, 1996. Prior to issuing its original policy on civil enforcement of the storage prohibition, EPA determined that inadequate treatment technology and disposal capacity existed to treat or dispose of many types of mixed waste. EPA recognizes that there still exists no treatment for some mixed wastes, despite developments in treatment technology, and reductions in mixed wastes generated using waste minimization, since the policy was first published.

In May, 1995, Idaho National Engineering Laboratory prepared a report for the Department of Energy (DOE) that reviewed the available treatment options for mixed waste. This report concluded that while generators used waste minimization and new treatment technologies to reduce the amount of mixed wastes generated, treatment for an estimated 1.18 cubic meters of mixed waste per year is not commercially available. Commercial generators and many federal government agencies have little option but to store some of these wastes until new technologies become available. Thus many mixed waste generators may be subject to enforcement action or citizen suits even though it is impossible for them to comply with the law.

Action

EPA is extending its "Policy on Enforcement of RCRA Section 3004(j) Storage Prohibition at Facilities Generating Mixed Radioactive/Hazardous Wastes," until April 20, 1998. The extension confirms that storage of mixed waste subject to LDRs is unlawful under the section 3004(j) storage prohibition

even in the absence of treatment and disposal capacity. The policy states, however, that violators who (1) are faced with an impossibility of complying with the RCRA regulations and (2) are storing their wastes in an environmentally responsible manner will be a low enforcement priority for EPA.

The policy defines "commercially available treatment technology and disposal capacity" to include any facility that has: (1) a RCRA permit or interim status; (2) a research, development, and demonstration permit (40 CFR 270.65); or (3) a land treatment permit (40 CFR 270.63). This definition will help clarify that bench scale and research and development projects may provide a vehicle for some generators to have their wastes treated. The extended policy clarifies that a "low enforcement priority" applies only to wastes for which no treatment and disposal option exists and only so long as no treatment and disposal option exists. The policy states that EPA anticipates using RCRA section 3007 authorities to ensure that treatable wastes are being sent off-site for treatment and that untreatable wastes are being stored safely.

The clarifications added ensure that generators understand the scope of coverage, including the fact that as new technologies become available, the wastes that can be treated are no longer covered by this policy. Generators with treatable waste must arrange for treatment and disposal.

For More Information

The *Federal Register* (FR) notice and this fact sheet are available in electronic format on the Internet System through EPA Public Access Server at gopher.epa.gov. For the text of the FR notice, choose: Rules, Regulations, and Legislation; then FR-Waste; finally Year/Month/Day. This fact sheet is available under: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste/Hazardous Waste-Radioactive Waste/Mixed Waste/General.

For additional information or to order paper copies of the FR notice, call the RCRA Hotline. Callers within the Washington, Metropolitan Area must dial 703-412-9810 or TDD 703-412-3323 (hearing impaired). Long distance callers may call 1-800-424-9346 or TDD 1-800-553-7672. The RCRA Hotline is open Monday-Friday, 9:00 a.m. to 6:00 p.m. Eastern Standard Time.